

## **EXHIBIT 1**



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By Email

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Sacramento, CA 95814

Re: *Christa McAuliffe Intermediate School PTO, Inc. v. Bill de Blasio*,  
18-cv-11657 (ER)(OTW)

Counsel:

In light of the discussion at our conference before Judge Ramos in the above-subject case on June 26, 2019, Defendants propose the following revised discovery production. Given the data Defendants have already produced, it is clear that the challenged changes, implemented for the admissions process for the class that will enter in September 2019, have not had an adverse impact on Asian-American students. Indeed, Defendants' data shows that the challenged changes have benefitted Asian-American students; as a group Asian-American students did better than they would have if the challenged changes had been enjoined. Further, Defendants have produced data that shows that if the challenged changes had been implemented for the class entering in September 2019, to the extent that they will be implemented for the class entering in September 2020 (20% of the seats for the Discovery Program), Asian-American students would have done even better than they did under the challenged changes at the actual "mid-point" level used for the class entering in September 2019 (approximately 13% of the seats for the Discovery Program). Plaintiffs have acknowledged that adverse impact is a required component of their sole claim – that the challenged changes violate the equal protection clause.

In light of this, as set out below, to the extent not already provided, Defendants propose to provide Plaintiffs with: 1) four years of actual data concerning admission offers to the

Specialized High Schools and to the Discovery Program, for the classes that entered from September 2016 through September 2018 and for the class that will enter in September 2019; 2) two “alternative scenario” data showing the offers based on SHSAT scores and invitations to the Discovery Program that would have been made for the class entering in September 2019 if a) the preliminary injunction had been granted and b) if the Discovery Program for the class entering in September 2019 had been expanded to the size (20% of the seats) that is planned for September 2020; and 3) data showing the basis for the model developed in 2018, using the data for the class entering in September 2017, which projected an estimated effect of the then-proposed changes (expansion of Discovery Program to 20% of the seats and disadvantaged criteria including attendance at a school with an ENI of .60 or above) on the racial/ethnic composition of the class that would enter in September 2020.

In light of this, with the exception of the data that has been or will be provided, as indicated below, Plaintiffs’ First Set of Requests for Production are objected to on the grounds that: they are not proportional to the needs of the case; the burden and expense outweigh the likely benefit of production, and they are not relevant to any parties’ claim or defense. In addition, as Defendants have previously asserted, many records comprehended by this Set of Requests for Production are protected by the attorney-client or work-product privilege, or constitute material prepared for litigation purposes, or are protected by the deliberative process privilege, and that as previously agreed between the parties, Defendants reserved their right to assert their objections based on these privileges at a subsequent time.

Defendants wish to make clear that they have no objection to Plaintiffs taking the deposition of a witness who is knowledgeable about the data to be produced.

Defendants will produce, to the extent they have not already produced, records showing the following data for the admissions process to the specialized high schools for September of the years 2016-2019: Please note, consistent with the data already produced, Defendants will observe the FERPA limitations concerning small data points -- data points of 5 or less will be expressed as that range.

#### **Data for Admissions Processes for September 2016 – 2019**

##### Applicant Pool

- The total number of eighth grade students who took the SHSAT examination in the previous fall
- The number of eighth grade testers broken down by race/ethnicity
- The percentage distribution of eighth grade testers, by race/ethnicity

##### SHSAT Score Only Offers

- The number of eighth grade testers who received an offer based solely on SHSAT score, broken down by race/ethnicity
- The percentage distribution of eighth grade testers who received an offer based solely on SHSAT score, by race/ethnicity
- The percentage of total eighth grade testers who received an offer based solely on SHSAT score

- The percent of eighth grade testers in each race/ethnic group who received an offer based solely on SHSAT score

SHSAT Score Only Offers - Broken Down by School

- The number of ninth grade seats to be filled at each school based solely on SHSAT score
- The acceptance rate used for each school to calculate the number of offers based solely on SHSAT score for each school
- The cut-off score for each school for eighth grade testers who received an offer based solely on SHSAT score
- The number of eighth grade testers who received an offer based solely on SHSAT score to each school, broken down by race/ethnicity

Discovery Program

- The total number of Discovery Program invitations
- The total number of Discovery Program invitations, broken down by race/ethnicity
- The percentage distribution of total Discovery Program invitations by race/ethnicity
- The total number of Discovery Program invitations to Definitely Disadvantaged testers
- The total number of Discovery Program invitations to Definitely Disadvantaged testers, broken down by race/ethnicity
- The percentage distribution of Discovery Program invitations to Definitely Disadvantaged testers, by race/ethnicity
- The total number of Discovery Program invitations to Unknown Disadvantaged plus Private School testers
- The total number of Discovery Program invitations to Unknown Disadvantaged plus Private School testers, broken down by race/ethnicity
- The percentage distribution of Discovery Program invitations to Unknown Disadvantaged plus Private School testers, by race/ethnicity
- The total number of Discovery Program offers (offers are made to testers who submitted an application that was approved as meeting all eligibility requirements)
- The total number of Discovery Program offers, broken down by race/ethnicity
- The percentage distribution of total Discovery Program offers, broken down by race/ethnicity
- The total number of Discovery Program offers to Definitely Disadvantaged testers
- The total number of Discovery Program offers to Definitely Disadvantaged testers, broken down by race/ethnicity
- The percentage distribution of Discovery Program offers to Definitely Disadvantaged testers, by race/ethnicity
- The total number of Discovery Program offers to Unknown Disadvantaged plus Private School testers
- The total number of Discovery Program offers to Unknown Disadvantaged plus Private School testers, broken down by race/ethnicity
- The percentage distribution of Discovery Program offers to Unknown Disadvantaged plus Private School testers, by race/ethnicity

Discovery Program - Broken Down by School

- The number of ninth grade seats to be filled at each school's Discovery Program
- The acceptance rate used for each school to calculate the number of Discovery Program invitations for each school
- The cut-off score for each school for its Discovery Program
- The number of eighth grade testers who received a Discovery Program invitation to each school, broken down by race/ethnicity
- The number of eighth grade testers who received a Discovery Program offer to each school, broken down by race/ethnicity

**First 2019 Alternate Scenario – Had the Preliminary Injunction Been Granted and Previous Discovery Program Criteria and Size been Applied to the Fall 2018 Test Takers**

SHSAT Score Only - Broken Down by School

- The number of ninth grade seats that would have been filled at each school based solely on SHSAT score
- The acceptance rate that would have been used for each school to calculate the number of offers based solely on SHSAT score for each school
- The cut-off score that would have been used for each school for eighth grade testers who would have received an offer based solely on SHSAT score
- The number of eighth grade testers who would have received an offer based solely on SHSAT score to each school, broken down by race/ethnicity

Discovery Program – Broken Down by School

- The number of ninth grade seats that would have been filled at each school's Discovery Program
- The acceptance rate that would have been used for each school to calculate the number of Discovery Program invitations for each school
- The cut-off score that would have been used for each school for its Discovery Program
- The number of eighth grade testers who would have received a Discovery Program invitation to each school, broken down by race/ethnicity

**Second 2019 Alternative Scenario – Had 20% of Seats been Reserved for the Discovery Program and Applied to the Fall 2018 Test Takers**

SHSAT Score Only - Broken Down by School

- The number of ninth grade seats that would have been filled at each school based solely on SHSAT score
- The acceptance rate that would have been used for each school to calculate the number of offers based solely on SHSAT score for each school
- The cut-off score that would have been used for each school for eighth grade testers who would have received an offer based solely on SHSAT score
- The number of eighth grade testers who would have received an offer based solely on SHSAT score to each school, broken down by race/ethnicity

Discovery Program – Broken Down by School

- The number of ninth grade seats that would have been filled at each school's Discovery Program
- The acceptance rate that would have been used for each school to calculate the number of Discovery Program invitations for each school
- The cut-off score that would have been used for each school for its Discovery Program
- The number of eighth grade testers who would have received a Discovery Program invitation to each school, broken down by race/ethnicity

**Model – Data and Methodology Used in 2018 for Model of 20% Seats for Discovery Program with Attendance at an ENI 60% or above School Included as a Disadvantaged Criteria**

Applicant Pool

- The total number of eighth grade students who took the SHSAT examination in the Fall of 2016 for admission in September 2017 ("the testers")
- The number of testers broken down by race/ethnicity
- The percentage distribution of testers, by race/ethnicity

SHSAT Score Only - Broken Down by School

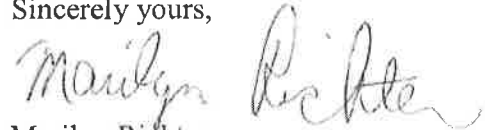
- The number of seats to be filled at each school based solely on SHSAT score
- The acceptance rate used for each school to calculate the number of offers based solely on SHSAT score for each school
- The cut-off score used for each school for testers who received an offer based solely on SHSAT score
- The number of testers who received an offer based solely on SHSAT score to each school, broken down by race/ethnicity

Discovery Program – Broken Down by School

- The number of seats to be filled at each school's Discovery Program
- The acceptance rate used for each school to calculate the number of Discovery Program invitations for each school
- The cut-off score used for each school's Discovery Program
- The number of testers who received a Discovery Program invitation to each school, broken down by race/ethnicity

We are happy to discuss this letter with you, at our mutual convenience. I wanted to add that this letter would have been sent last week, but unfortunately I was ill and out of the office last week.

Sincerely yours,



Marilyn Richter  
Assistant Corporation Counsel